

Message Text

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ACTION NEA-10

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NEA/ARN PASS AMBASSADOR PICKERING
A/OS FOR DR MANNINO

E.O. 11652: N/A

TAGS: AFSP ASCH ACLM

SUBJECT: AMERICAN COMMUNITY SCHOOL

1. CONSTRUCTION OF ADDITIONAL CLASSROOMS AT AMERICAN COMMUNITY SCHOOL COMPOUND WAS HALTED WHEN CONSTRUCTION COMPANY RECEIVED COURT ORDER WITH INSTRUCTIONS TO DESIST FURTHER BUILDING. EMBASSY REQUESTED ITS LEGAL ADVISOR TO OBTAIN COPY OF ORDER AND TO PROVIDE AN ENGLISH TRANSLATION. PRELIMINARY HEARING HAS NAMED BOARD OF DIRECTORS AND/OR SCHOOL PRINCIPAL AS DEFENDENTS AND IDENTIFIES LANDLORDS OF SCHOOL PROPERTY (ASFOURS) AS PLAINTIFF. THE SCHOOL IS ACCUSED OF NONCOMPLIANCE TO CONDITIONS AND TERMS CONTAINED IN CONTRACT NEGOTIATED 1964. SPECIFICALLY NOTED IN PLAINTIFFS BRIEF WERE ALLEGED VIOLATIONS TO RENEWAL CLAUSE REQUIRING 30-DAY ADVANCE NOTICE BY THE TENANTS TO EXTEND LEASE. THIS OPTION HAD NOT BEEN EXERCISED WITHIN PRESCRIBED TIME FRAME SINCE RENEWAL NOTICE WAS SENT A FEW DAYS LATER. SECONDLY, UNAUTHORIZED CONSTRUCTION WAS STARTED ON ADDITIONAL CLASSROOM FACILITIES WITHOUT WRITTEN CONSENT OF LANDLORDS. PLAINTIFFS ALSO REQUEST COURT EVICT SCHOOL FROM PREMISES.

2. OUR LEGAL COUNSEL BELIEVES RENEWAL ISSUE CAN BE DEFENDED ON GROUNDS OF AN EXISTING LANDLORD/TENANT
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LAW WHICH COULD BLOCK LANDLORD'S EVICTION REQUEST.

THE QUESTION OF UNAUTHORIZED CONSTRUCTION IS MUCH MORE COMPLICATED AND APPEARS LESS EASY FOR SCHOOL BOARD TO DEFEND SINCE THERE IS DISAGREEMENT OVER WHAT CONSTITUTES APPROVAL.

3. EMBASSY'S LEGAL ADVISOR HAS SUGGESTED SCHOOL ESTABLISH ITS DEFENSE ON EITHER DIPLOMATIC STATUS OF SCHOOL, GENERALLY, ALBEIT TACITLY, ACKNOWLEDGED BY JORDANIAN OFFICIALS, OR ON THE MERITS OF THE CONTRACT AND/OR OTHER CORRESPONDENCE PASSED BETWEEN LANDLORD AND SCHOOL BOARD ON SUBJECT OF RENEGOTIATION OF LEASE AND CLASS ROOM EXPANSION QUESTION. LEGAL COUNSEL BELIEVES BOARD POSITION DEFENSIBLE, BUT CANNOT GUARANTEE COURT WILL RULE FAVORABLE IF WE SEEK DEFENSE SOLELY ON MERITS OF CONTRACT ALONE, AND HE PREFERS TO EXERCISE DIPLOMATIC IMMUNITY.

4. THE STATUS OF SCHOOL HAS PECULIAR ANOMALY. JORDANIAN AUTHORITIES TEND TO CONSIDER SCHOOL AN ENTITY OF THE AMERICAN EMBASSY AND BECAUSE OF THEIR VIEW HOST GOVERNMENT HAS GRANTED SCHOOL DIPLOMATIC EXEMPTIONS FROM LOCAL TAXES AND FEES OTHER PRIVATE SCHOOLS PAY. SCHOOL HAS ALSO BEEN PERMITTED TO IMPORT TEXT BOOKS, CLASSROOM SUPPLIES AND EQUIPMENT DUTY FREE. ON THE OTHER HAND IT IS OUR UNDERSTANDING FROM DEPARTMENT'S OVERSEAS SCHOOLS (DR MANNINO AND DR PARSON) DEPT DOES NOT ENCOURAGE US EMBASSIES ABROAD TO ASSUME LEGAL RESPONSIBILITY FOR COMMUNITY SCHOOLS. WE ARE UNCERTAIN HOWEVER WHETHER THIS WOULD ALSO APPLY TO QUESTION OF SEEKING OFFICIAL DIPLOMATIC RECOGNITION OF AMERICAN COMMUNITY SCHOOLS BY LOCAL GOVERNMENTS AND DIPLOMATIC IMMUNITY THAT WOULD PRESUMABLY ACCOMPANY THIS RECOGNITION. (THERE IS ALSO SOME INDIRECT SUPPORT FOR ASSERTION OF DIPLOMATIC IMMUNITY WITHIN RENTAL CONTRACT ITSELF, INASMUCH AS IT SPECIFIES THAT AID DIRECTOR (RATHER THAN GOJ) SHALL BE FINAL ARBITER OF ANY CONTRACT DISPUTES. ALSO FACT THAT SCHOOL WAS ESTABLISHED WITH USG (STATE AND AID) FUNDS WOULD SUPPORT ITS OFFICIAL CHARACTER). WE WOULD APPRECIATE DEPT PROVIDING GUIDANCE ON DIPLOMATIC IMMUNITY ISSUE AND WHAT KIND OF STATEMENT LIMITED OFFICIAL USE

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WE COULD MAKE ON THE SUBJECT OF DIPLOMATIC IMMUNITY IN SUPPORT OF THE SCHOOL IF THAT SHOULD BE REQUIRED TO AVERT COURT PROCEEDINGS. GIVEN THE JORDANIAN VIEW IT IS POSSIBLE THE COURT AND/OR FOREIGN MINISTRY WOULD RULE ON THE MATTER WITHOUT ANY STATEMENT FROM THE EMBASSY; OR AT MOST A RATHER GENERAL STATEMENT TO AFFECT THAT SCHOOL IS PART OF DIPLOMATIC ESTABLISHMENT OF AMMAN OR SIMILAR STATEMENT WHICH WE WOULD HOPE

WOULD BE ACCEPTABLE ALSO TO THE DEPARTMENT. GIVEN INFLATED CURRENT PRICES OF LAND IN AMMAN, IT HIGHLY UNLIKELY THAT SCHOOL COULD MEET CURRENT MONETARY RENTAL INCREASE DEMANDS OF LANDLORDS, WHICH COULD BE IN RANGE OF DOLS 150,000-300,000 RENTAL PER YEAR AS OPPOSED TO DOLS 10,000 ANNUAL RENT WE ARE PAYING CURRENTLY. PURCHASE ALSO APPEARS PROHIBITIVE SINCE IT WOULD BE IN DOLS 1.5 TO 3.0 MILLION RANGE.

5. COURT HAS BEEN REQUESTED TO ESTEND DEADLINE FOR SCHOOL TO PRESENT ITS RESPONSE TO CHARGES TO OCTOBER 19 IN LIEU SEPTEMBER 19 TO ALLOW DEPT OPPORTUNITY TO RESPOND TO CONTENTS PARA 4.

6. EMBASSY POUCHING COPIES OF LEASE AND COURT ORDER TO DEPARTMENT A/OS-DR MANNINO AND NEA/ARN FOR AMBASSADOR PICKERING.

7. REQUEST DEPT ADVISE AND ALSO DISCUSS WITH AMBASSADOR PICKERING DURING HIS CONSULTATIONS IN LATE SEPTEMBER.
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